

DOCUMENT RESUME

02907 - [A2013101]

[Relocation Expenses, Attorney's Fees]. B-188487. July 15, 1977.  
4 pp.

Decision re: Frank C. Hider, Jr.; by Paul G. Dembling (for Elmer B. Staats, Comptroller General).

Issue Area: Personnel Management and Compensation: Compensation (305).

Contact: Office of the General Counsel: Civilian Personnel.

Budget Function: General Government: Central Personnel Management (805).

Organization Concerned: Internal Revenue Service.

Authority: 5 U.S.C. 5724a. F.T.R. (FPMR 101-7), para. 2-6.2c.  
B-185976 (1977). B-186290 (1976). B-183807 (1976). B-184599 (1975). 48 Comp. Gen. 469.

Elizabeth A. Allen, an Authorized Certifying Officer of the Department of the Treasury, Internal Revenue Service, requested a decision regarding a voucher for reimbursement of attorney's fees incurred in connection with the sale of a residence incident to a permanent change of station. The employee could be reimbursed for legal fees relating to the abstract of the title, proofreading and photocopying documents, and conducting the settlement, but could not be reimbursed for legal fees relating to legal research or consultations.  
(Author/SC)

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**DECISION**



*Hunter*  
*Civ. Serv.*

**THE COMPTROLLER GENERAL  
OF THE UNITED STATES**  
WASHINGTON, D.C. 20548

**FILE: B-188487**

**DATE: July 15, 1977**

**MATTER OF: Frank C. Hider, Jr. - Relocation Expenses -  
Attorneys Fees**

**DIGEST:** Since GAO decision in George W. Lay, B-185976, April 27, 1977, is prospective from that date only, transferred employee who settled residence sale prior to that date is governed by previously applicable decisions. Thus, employee may be reimbursed legal fees relating to abstract of title, proofreading and photocopying documents, and conducting settlement, but may not be reimbursed legal fees for legal research and consultations.

By a letter dated February 14, 1977, Ms. Elizabeth A. Allen, an authorized certifying officer of the Department of the Treasury, Internal Revenue Service (IRS), requested our decision concerning a voucher submitted by Mr. Frank C. Hider, Jr., an IRS employee, for reimbursement of attorneys fees incurred in connection with the sale of his old residence incident to a permanent change of station.

The record indicates that by a travel authorization dated April 15, 1974, Mr. Hider's permanent duty station was transferred from Miami, Florida, to Dallas, Texas. On June 27, 1974, Mr. Hider sold his residence in Miami, Florida, and incurred legal fees from the law firm of Swann & Glass in the amount of \$450. Upon claiming reimbursement of the legal fees in full, Mr. Hider was administratively disallowed \$260 on the grounds that such amount represented legal services which appeared to be advisory in nature. In reclaiming the disallowed amount, Mr. Hider has submitted a revised statement dated December 2, 1975, from his attorney in which amounts totaling \$75 charged for consultations have been deleted. Although conceding that the \$75 represents charges for telephone conferences and other consultations, Mr. Hider contends that he should be reimbursed that amount because the discussions were not for the purpose of rendering advice, but were to provide the attorney with the pertinent facts in the matter. In addition, Mr. Hider reclaims the following charges, as set forth on the December 2, 1975, statement from Swann & Glass:

B-188487

1. Securing of abstract of title and VA mortgage documents to review mortgagee's lien; review of contract of sale for subject premises and review of chain of title and mortgages attaching to said chain of title, particularly with respect to existing mortgagee  
.50 hours \$ 25.00
2. Preparation of documents required for assumption of mortgage by purchaser and release of mortgagor  
.30 hours 15.00
3. Preparation of checklist of instructions to title company to secure update of title abstract  
.10 hours 5.00
4. Review of existing mortgage and research re assignment of said mortgage to purchaser  
.20 hours 10.00
5. Review of Veterans Administration release forms and review of assumption language prescribed by Veterans Administration to be inserted in Warranty Deed; research of Florida law on form of deed with regard to signature of preparer  
.50 hours 25.00
6. Proofreading of Closing Statement, Deed, No-Lien Affidavit and Bill of Sale of personal property; proofreading of revised Deed naming nominee of purchaser  
.50 hours 25.00

B-188487

7. Preparation of documents to be signed  
at closing

.25 hours 12.50

8. Handling closing in offices of firm

1.25 hours 62.50

9. Photocopying charges 5.00

Statutory authority for reimbursement of the legal expenses of residence transactions of transferred employees is found at 5 U.S.C. § 5724a (1970). Regulations implementing that authority at the time of Mr. Hider's transfer were contained in paragraph 2-6.2c of the Federal Travel Regulations (FPMR 101-7, May 1973). In our recent decision in the Matter of George W. Lay, B-185976, April 27, 1977, 56 Comp. Gen. \_\_\_, we reviewed the policy concerning the extent to which legal fees may be reimbursed. In that decision we held that necessary and reasonable legal fees and costs, except for the fees and costs of litigation, incurred by reason of the purchase or sale of a residence incident to a permanent change of station may be reimbursed provided that the costs are within the customary range of charges for such services within the locality of the residence transaction. Since, however, our decision in Lay will be applied prospectively only to cases in which settlement of the transaction occurs on or after April 27, 1977, the present matter must be determined in accordance with the previously applicable laws and decisions.

Our previous decisions concerning the reimbursement of legal fees consistently held that only legal services of the type enumerated in FTR para. 2-6.2c could be reimbursed, and that no reimbursement could be made for legal services which are advisory in nature. Matter of Joe J. Baca, B-183102, June 9, 1976; 48 Comp. Gen. 469 (1969). Thus, we have held that charges for consultations, conferences, and correspondence may not be reimbursed. Matter of Francis E. Mucklin, B-186290, September 30, 1976. Accordingly, the \$75 which represents consultations by Mr. Hider's attorney may not be reimbursed.

Paragraph 2-6.2c of the Federal Travel Regulations specifically provides that, if customarily paid by the seller at the old residence, the costs of preparing an abstract may be paid to the extent such

B-188487

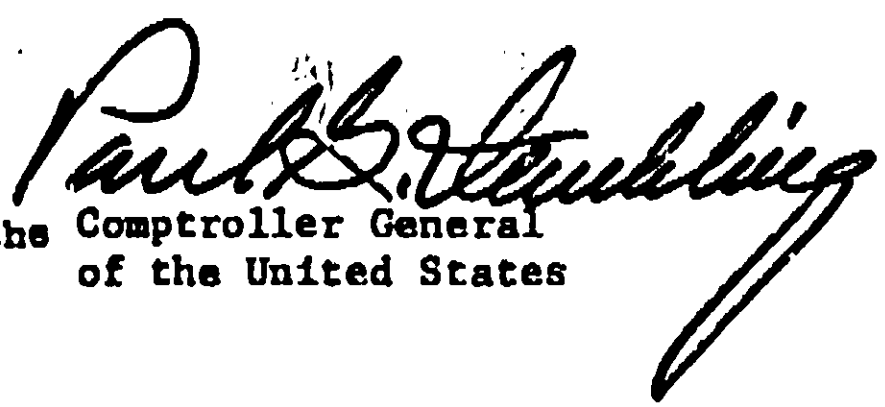
costs do not exceed amounts customarily charged in the locality of the residence. We have been informally advised by the Coral Gables office of the Department of Housing and Urban Development that the sellers of real property in the area of Miami, Florida, customarily pay for the preparation of an abstract of title. Since items 1, 2, and 3, set forth above, relate to the preparation of an abstract of title, they may be paid if otherwise proper.

Items 4 and 5 consist primarily of charges for legal research. We have previously held that research, either regarding a specific point, or to gain general familiarity with the law in an area, is properly characterized within the category of general advisory services. Baca, supra. Accordingly, the charges for items 4 and 5 may not be reimbursed.

Items 6 and 9 consist of charges for proofreading and photocopying documents. Such final review and action is reasonably related to the preparation of those documents and is, therefore, reimbursable. Matter of Stanley M. Wolf, B-183807, August 30, 1976.

With respect to reimbursement of settlement expenses, we have held that an attorney's fee for conducting a closing may be reimbursable; however, a fee charged for merely attending a settlement with the employee may not be reimbursed. Matter of John O. Border, B-184599, September 16, 1975. Since in the present case, items 7 and 8 are for preparation of the closing documents and for conducting the closing, they may, if otherwise proper, be reimbursed.

Accordingly, the voucher is returned for processing pursuant to the above.

  
For the Comptroller General  
of the United States